

who have been duly elected by the people and stand accountable to the people.

We have, over time, clarified the intent. We have made clear there are certain steps that have to be taken. We have also made clear that although there is, to be sure, a certain unknown continuum, a continuum that can be hard to define in every circumstance, between the President's plenary authority as Commander in Chief, on the one hand, and Congress's power to declare war on the other, there does come a point at which we can recognize that we are at war and that some authorization is required by Congress.

This very body, Congress, has, through the war powers resolution, attempted to distill some of these principles. In section 1541 of the War Powers Act—it is found at 50 United States Code section 1541—we are told there are circumstances, three circumstances to be precise—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. REID. Mr. President, first of all, I wish to express my appreciation to the Senator from Kentucky. He is a gentleman. I know how sincere he feels about this issue. I admire him for feeling sincerely about issues, as he does on a number of them.

It has been good for me to get to know him better during the last 4 or 5 days.

I ask for the clerk to report the pending business.

SBIR/STTR REAUTHORIZATION ACT OF 2011—Resumed

The PRESIDING OFFICER. The clerk will report the pending business. The bill clerk read as follows:

A bill (S. 493) to reauthorize and improve the SBIR and STTR programs, and for other purposes.

Pending:

McConnell amendment No. 183, to prohibit the Administrator of the Environmental Protection Agency from promulgating any regulation concerning, taking action relating to or taking into consideration the emission of a greenhouse gas to address climate change.

Vitter amendment No. 178, to require the Federal Government to sell off unused Federal real property.

Inhofe (for Johanns) amendment No. 161, to amend the Internal Revenue Code of 1986 to repeal the expansion of information reporting requirements to payments made to corporations, payments for property and other gross proceeds, and rental property expense payments.

Cornyn amendment No. 186, to establish a bipartisan commission for the purpose of improving oversight and eliminating wasteful government spending.

Paul amendment No. 199, to cut \$200,000,000,000 in spending in fiscal year 2011.

Sanders amendment No. 207, to establish a point of order against any efforts to reduce benefits paid to Social Security recipients, raise the retirement age or create private retirement accounts under title II of the Social Security Act.

Hutchison amendment No. 197, to delay the implementation of the health reform law in

the United States until there is final resolution in pending lawsuits.

Coburn amendment No. 184, to provide a list of programs administered by every Federal department and agency.

Pryor amendment No. 229, to establish the Patriot Express Loan Program under which the Small Business Administration may make loans to members of the military community wanting to start or expand small business concerns.

Landrieu amendment No. 244 (to amendment No. 183), to change the enactment date.

Paul motion to commit the bill to the Committee on Foreign Relations with instructions to report the same back to the Senate forthwith with Paul amendment No. 276 (to the instructions on Paul motion to commit the bill), of a perfecting nature.

Mr. LEVIN. Mr. President, I rise to oppose the Paul amendment on the President's constitutional authority to order the use of military force. This amendment is flawed because it doesn't allow the President to respond militarily to a completed attack and only allows action to stop an actual or imminent threat to the Nation.

The amendment would in effect make it illegal for the President to unilaterally order the use of military force to protect U.S. interests except only in situations that involve preventing an actual threat to the United States or an imminent threat to the United States.

Numerous Presidential decisions to order the use of military force over the last 30 years would not meet the standard of the Paul amendment.

For example, under the Paul amendment President Ronald Reagan would have acted illegally in 1983 when he unilaterally ordered the invasion of Grenada, which did not involve an "actual" or "imminent" threat against the United States from Grenada.

Similarly President George H.W. Bush would have acted illegally under the Paul amendment when he ordered the 1989 invasion of Panama. President Bush justified the Panama invasion based on protecting the lives of U.S. citizens, defending democracy and human rights in Panama, and countering drug trafficking, not on an "actual or imminent threat to the nation."

Also, President Reagan's ordering airstrikes against Libya in 1986, 11 days after Libyan terrorist agents bombed the LaBelle discotheque and killed or wounded over 100 U.S. soldiers, might have been illegal under the Paul amendment. The President's response to Libya's sponsorship of terrorism arguably would not have met the standard of "stopping an actual or imminent threat to the nation" because the tragic act of terrorism had already happened days earlier.

Finally, according to this amendment, President Obama acted beyond his constitutional authority when he authorized the use of deadly force by Navy SEALs to rescue Captain Richard Phillips from Somali pirates on April 10, 2010.

There are numerous other examples over the past decades when Presidents

have ordered the use of military force to protect U.S. interests, but where such actions would not have met the standards of the Paul amendment.

I urge my colleagues to vote to table this amendment.

Mr. REID. Mr. President, it is my understanding that the Paul amendment is the pending business; is that right?

The PRESIDING OFFICER (Mr. FRANKEN). The motion to commit by Senator PAUL is pending.

Mr. REID. I move to table that and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays are ordered.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 90, nays 10, as follows:

[Rollcall Vote No. 50 Leg.]

YEAS—90

Akaka	Feinstein	Menendez
Alexander	Franken	Merkley
Ayotte	Gillibrand	Mikulski
Barrasso	Graham	Murkowski
Baucus	Grassley	Murray
Begich	Hagan	Nelson (NE)
Bennet	Harkin	Nelson (FL)
Bingaman	Hatch	Portman
Blumenthal	Hoeven	Pryor
Blunt	Hutchison	Reed
Boozman	Inhofe	Reid
Boxer	Inouye	Risch
Brown (MA)	Isakson	Roberts
Brown (OH)	Johanns	Rockefeller
Burr	Johnson (SD)	Rubio
Cantwell	Kerry	Sanders
Cardin	Kirk	Schumer
Carper	Klobuchar	Shaheen
Casey	Kohl	Shelby
Chambliss	Kyl	Stabenow
Coats	Landrieu	Tester
Coburn	Lautenberg	Thune
Cochran	Leahy	Udall (CO)
Conrad	Levin	Udall (NM)
Coons	Lieberman	Vitter
Corker	Lugar	Warner
Cornyn	Manchin	Webb
Crapo	McCain	Whitehouse
Durbin	McCaskill	Wicker
Enzi	McConnell	Wyden

NAYS—10

Collins	Lee	Snowe
DeMint	Moran	Toomey
Ensign	Paul	
Johnson (WI)	Sessions	

The motion was agreed to.

Mr. MCCONNELL. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Louisiana.

MORNING BUSINESS

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.